

Application No. 09/626,400

**REMARKS**

Claims 1-36 were pending in the application. Claims 1-3, 7, 13-16 and 24 were rejected. Claims 4-6, 8-12, 17-23 and 25-36 were objected to. No claims have been amended. Claims 37 to 40 are new and are directed to different aspects of the invention. They are not being presented in response to a rejection.

**REJECTIONS UNDER 35 U.S.C §102**

Applicant respectfully traverses the rejection of claims 1-3, and 14 as being anticipated by Charvillat. Charvillat contemplates allocating only a shared "pool" of free bandwidth (col. 2, lines 16-18) to a particular call, and to reallocating to the call bandwidth from the pool or commonly shared bandwidth resource based on contract parameters being exceeded by the call. Col. 2, lines 19-41. Claim 1, and thus also the claims depending from it, contemplates a resource being allocated among a plurality of classes of services and then lent to another class of services when needed. This is plainly not taught or suggested by Charvillat. There is no mention of a resource being allocated among classes, and then reallocated from one class of service to a connection in another class of service.

Applicant also respectfully traverses the rejection of claim 24. Claim 24 is rejected on grounds that Fan *et al.* anticipate it. The passages in Fan *et al.* pointed to by the examiner, at col. 8, line 14 and col. 21, lines 13-19, do not contemplate taking weighting assigned or allocated to one class of service and allocating it to a connection in another class of service. Rather, Fan and his colleagues only contemplate a single "pool of excessive bandwidth" that is made available to "streams which transmit in excess of their minimum rates." Col. 8, lines 12-15. If QoS falls below a target QoS for a particular stream, more bandwidth is allocated to that stream – presumably from the pool. Again, there is no mention of bandwidth or weighting being allocated among classes, and then reallocated based on thresholds.

To be rejected under 35 U.S.C. 102(e), a single reference must teach each and every element of the claim and meet every limitation. Neither reference cited by the examiner meets all the elements and limitations of a rejected claim. Therefore, the rejection is in error. It is respectfully requested that it be withdrawn.

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**REJECTIONS UNDER 35 U.S.C §103**

The rejections of claims 7, 13 and 16 are premised on the same erroneous readings of Charvillat and Fan et al. traversed above, and therefore are in error for at least the same reasons. It is therefore requested that this rejection should be withdrawn. Applicant has, in view of the errors mentioned above, chosen not to address the additional errors in the reasoning for rejecting these claims. By not addressing these errors at this time, applicant is not waiving the opportunity to do so in the future.

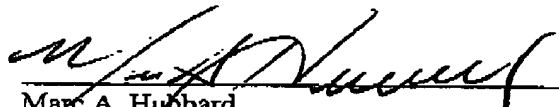
**ALLOWABLE SUBJECT MATTER**

Applicant acknowledges that claims 4-6, 8-12, 15, 17-23 and 25-36, though objected to, would be allowable if rewritten in independent form. However, in view of the foregoing remarks concerning the base claims, they have not been placed in independent form.

Applicants respectfully request reconsideration and allowance of the application. Please telephone the undersigned representative should he be of any assistance in connection with the reconsideration.

Please charge deposit account no. 13-4900 of Munsch Hardt Kopf & Harr, P.C. any additional fees associated with this paper.

Respectfully submitted,

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